

POSTWAR DISPOSITION OF DEFENSE INSTALLATIONS AND FACILITIES

*Exchange of notes at Washington November 22 and December 20,
1944, modifying agreement of January 27, 1943*

Entered into force December 20, 1944

*Superseded March 31, 1946, by agreement of March 30, 1946,¹ to the
extent that the later agreement is inconsistent with the earlier
agreement*

Complete settlement effected by agreement of June 17 and 18, 1949²

58 Stat. 1565; Executive Agreement Series 444

The Canadian Ambassador to the Secretary of State

CANADIAN EMBASSY
AMBASSADE DU CANADA

No. 399

NOVEMBER 22nd, 1944

SIR,

Under instructions from my Government, I have the honour to refer to recent discussions with respect to the post-war disposition of defence projects, installations and facilities built or provided in Canada by the Government of the United States. This matter was the subject of a recommendation of the Canada-United States Permanent Joint Board on Defence, adopted on January 13, 1943, and subsequently embodied in an Exchange of Notes dated January 27, 1943.³

After further study, and in the light of experience in connection with specific agreements already reached, it appeared desirable to the Board to amend its earlier recommendation and to make the revised recommendation applicable to all projects, disposition of which remains unsettled. Accordingly, on September 7, 1944, the Board adopted the following recommendation:

"The Permanent Joint Board on Defence recommends that the following formula be applied to the disposition of all defence facilities constructed or provided in Canada by the United States (and *mutatis mutandis* to any defence facilities constructed or provided in the United States by Canada) which have not already been dealt with.

¹ TIAS 1531, *post*, p. 407.

² UST 2272; TIAS 2352.

³ EAS 391, *ante*, p. 305.

Immovables

A—The Government of the United States shall, within three months from the date of the approval of this Recommendation, supply the Government of Canada with a list of immovables (hereinafter referred to as facilities) which it desires to make subject to the provisions of this Recommendation.

B—In the case of each of the facilities included in the list referred to in A, the Canadian Government and the United States Government will each appoint one qualified appraiser whose joint duty it will be to appraise such facility in order to determine the fair market value thereof at the time and place of appraisal. If the two appraisers cannot agree on the fair market value, they will select a third appraiser to determine this value. The amount set by the appraisers shall be paid to the United States Government by the Government of Canada,

provided that the foregoing paragraphs A and B shall not apply to any facilities heretofore specifically provided for;

C—Any existing facility not included in the United States list shall, within one year after the cessation of hostilities, be relinquished, without cost, to the Crown either in the right of Canada or in the right of the Province in which the same or any part thereof lies, as may be appropriate under Canadian law.

Movables

A—The Government of the United States shall remove from Canada all those items which it desires.

B—The Government of Canada shall arrange through the appropriate governmental agencies for the purchase from the United States of such remaining items as it desires to obtain for its own use or disposition.

C—All other movables shall be transferred to a designated agency of the Canadian Government and shall be sold or disposed of by such agency, the proceeds to be paid to the Government of the United States,

provided that, in connection with the items referred to in paragraph C, the United States Government shall be represented by an officer designated by it for that purpose, who shall have an equal voice in the setting of prices, the allocation of priorities, the assessment of legitimate sales costs and other details of the sale or other disposal of the items concerned;

and provided further that any such items remaining unsold at the end of two years from the time they are transferred to the Canadian agency concerned shall either be declared of no value and the account closed or, at the option of the United States, shall be removed from Canada by the United States authorities.”

I have been directed to inform you that this recommendation has been approved by the Government of Canada, subject to the following proviso:

"That, as there are certain facilities whose disposal would entail expenses such as custody and demolition, any expense of such a character would be taken into consideration in the final accounting."

and to propose that, if the foregoing is acceptable to the Government of the United States, this note and your reply thereto shall be regarded as placing on record the understanding arrived at between the two Governments concerning this matter.

Accept, Sir, the renewed assurances of my highest consideration.

L. B. PEARSON
For the Ambassador

The Honourable CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.

The Secretary of State to the Canadian Ambassador

DEPARTMENT OF STATE
WASHINGTON
December 20, 1944

EXCELLENCY:

I have the honor to acknowledge the receipt of your note no. 399, November 22, 1944, referring to recent discussions on the disposition of defense projects, installations and facilities built or provided in Canada by the Government of the United States and informing me of the approval by the Canadian Government of the 33rd Recommendation of the Permanent Joint Board on Defense, United States and Canada on this subject. The 33rd Recommendation amends and supersedes the 28th Recommendation of the Board which was embodied in the exchange of notes of January 27, 1943.

The United States Government has been pleased to observe that, pursuant to the 28th Recommendation specific agreements have already been reached covering the disposition of the major defense projects constructed by the United States in Canada. It is considered that the current Recommendation of the Board is suitable for application to all projects, disposition of which remains unsettled and I am glad, therefore, to inform you that the Government of the United States approved the 33rd Recommendation on November 11, 1944.

It is noted that the Canadian Government's approval is subject to the following proviso:

"That, as there are certain facilities whose disposal would entail expenses such as custody and demolition, any expense of such a character would be taken into consideration in the final accounting."

In accepting the Canadian Government's proviso to the 33rd Recommendation, I believe it useful to mention that it is understood by this Government from an explanatory memorandum kindly furnished by the Canadian authorities that expenses of custody and demolition will be taken into account by the appraisers and will through their findings be reflected in the final accounting.

In conclusion I may state that the United States Government accepts the proposal that your note under reference and this reply shall be regarded as placing on record the understanding arrived at between the two Governments on this matter.

Accept, Excellency, the renewed assurances of my highest consideration.

EDWARD R. STETTINIUS, Jr.

His Excellency

LEIGHTON MCCARTHY,
Ambassador of Canada.